

ESSB 5308 - H COMM AMD

By Committee on Children & Family Services

ADOPTED 04/11/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 26.44.030 and 2003 c 207 s 4 are each amended to read
4 as follows:

5 (1)(a) When any practitioner, county coroner or medical examiner,
6 law enforcement officer, professional school personnel, registered or
7 licensed nurse, social service counselor, psychologist, pharmacist,
8 licensed or certified child care providers or their employees, employee
9 of the department, juvenile probation officer, placement and liaison
10 specialist, responsible living skills program staff, HOPE center staff,
11 or state family and children's ombudsman or any volunteer in the
12 ombudsman's office has reasonable cause to believe that a child has
13 suffered abuse or neglect, he or she shall report such incident, or
14 cause a report to be made, to the proper law enforcement agency or to
15 the department as provided in RCW 26.44.040.

16 (b)(i) When any person who is an employee or regular-service
17 volunteer of a for-profit entity that provides services to children, or
18 nonprofit entity as defined in RCW 84.36.800, has reasonable cause to
19 believe that a child has suffered abuse or neglect, and the alleged
20 perpetrator is an employee, contractor, or regular-service or
21 occasional-service volunteer of the same for-profit or nonprofit
22 entity, he or she shall report such incident, or cause a report to be
23 made, to the proper law enforcement agency or to the department as
24 provided in RCW 26.44.040.

25 (ii) Nothing in this subsection (1)(b) shall limit a person's duty
26 to report under (a) of this subsection.

27 (c) The reporting requirement also applies to department of
28 corrections personnel who, in the course of their employment, observe
29 offenders or the children with whom the offenders are in contact. If,
30 as a result of observations or information received in the course of

1 his or her employment, any department of corrections personnel has
2 reasonable cause to believe that a child has suffered abuse or neglect,
3 he or she shall report the incident, or cause a report to be made, to
4 the proper law enforcement agency or to the department as provided in
5 RCW 26.44.040.

6 ~~((e))~~ (d) The reporting requirement shall also apply to any adult
7 who has reasonable cause to believe that a child who resides with them,
8 has suffered severe abuse, and is able or capable of making a report.
9 For the purposes of this subsection, "severe abuse" means any of the
10 following: Any single act of abuse that causes physical trauma of
11 sufficient severity that, if left untreated, could cause death; any
12 single act of sexual abuse that causes significant bleeding, deep
13 bruising, or significant external or internal swelling; or more than
14 one act of physical abuse, each of which causes bleeding, deep
15 bruising, significant external or internal swelling, bone fracture, or
16 unconsciousness.

17 ~~((d))~~ (e) The report must be made at the first opportunity, but
18 in no case longer than forty-eight hours after there is reasonable
19 cause to believe that the child has suffered abuse or neglect. The
20 report must include the identity of the accused if known.

21 (2)(a) The reporting requirement of subsection (1) of this section
22 does not apply to a member of the clergy with regard to information
23 obtained by the member of the clergy in his or her professional
24 character as a religious or spiritual advisor when the information is
25 obtained solely as a result of a confession made pursuant to the
26 clergy-penitent privilege as provided in RCW 5.60.060(3), and the
27 member of the clergy is authorized to hear such confession, and has a
28 duty under the discipline, tenets, doctrine, or custom of his or her
29 church, religious denomination, religious body, spiritual community, or
30 sect to keep the confession secret. The privilege shall not apply, and
31 the member of the clergy shall report child abuse or neglect pursuant
32 to this section, if the member of the clergy has received the
33 information from any source other than from a confession.

34 (b) Nothing in this subsection shall exempt a member of the clergy
35 from making a report of child abuse or neglect as required in
36 subsection (1) of this section when the member of the clergy is acting
37 in some other capacity that would otherwise require him or her to make
38 a report.

1 (3) The reporting requirement of subsection (1) of this section
2 does not apply to the discovery of abuse or neglect that occurred
3 during childhood if it is discovered after the child has become an
4 adult. However, if there is reasonable cause to believe other children
5 are or may be at risk of abuse or neglect by the accused, the reporting
6 requirement of subsection (1) of this section does apply.

7 ~~((+3))~~ (4) Any other person who has reasonable cause to believe
8 that a child has suffered abuse or neglect may report such incident to
9 the proper law enforcement agency or to the department of social and
10 health services as provided in RCW 26.44.040.

11 ~~((+4))~~ (5) The department, upon receiving a report of an incident
12 of alleged abuse or neglect pursuant to this chapter, involving a child
13 who has died or has had physical injury or injuries inflicted upon him
14 or her other than by accidental means or who has been subjected to
15 alleged sexual abuse, shall report such incident to the proper law
16 enforcement agency. In emergency cases, where the child's welfare is
17 endangered, the department shall notify the proper law enforcement
18 agency within twenty-four hours after a report is received by the
19 department. In all other cases, the department shall notify the law
20 enforcement agency within seventy-two hours after a report is received
21 by the department. If the department makes an oral report, a written
22 report must also be made to the proper law enforcement agency within
23 five days thereafter.

24 ~~((+5))~~ (6) Any law enforcement agency receiving a report of an
25 incident of alleged abuse or neglect pursuant to this chapter,
26 involving a child who has died or has had physical injury or injuries
27 inflicted upon him or her other than by accidental means, or who has
28 been subjected to alleged sexual abuse, shall report such incident in
29 writing as provided in RCW 26.44.040 to the proper county prosecutor or
30 city attorney for appropriate action whenever the law enforcement
31 agency's investigation reveals that a crime may have been committed.
32 The law enforcement agency shall also notify the department of all
33 reports received and the law enforcement agency's disposition of them.
34 In emergency cases, where the child's welfare is endangered, the law
35 enforcement agency shall notify the department within twenty-four
36 hours. In all other cases, the law enforcement agency shall notify the
37 department within seventy-two hours after a report is received by the
38 law enforcement agency.

1 ~~((+6+))~~ (7) Any county prosecutor or city attorney receiving a
2 report under subsection ~~((+5+))~~ (6) of this section shall notify the
3 victim, any persons the victim requests, and the local office of the
4 department, of the decision to charge or decline to charge a crime,
5 within five days of making the decision.

6 ~~((+7+))~~ (8) The department may conduct ongoing case planning and
7 consultation with those persons or agencies required to report under
8 this section, with consultants designated by the department, and with
9 designated representatives of Washington Indian tribes if the client
10 information exchanged is pertinent to cases currently receiving child
11 protective services. Upon request, the department shall conduct such
12 planning and consultation with those persons required to report under
13 this section if the department determines it is in the best interests
14 of the child. Information considered privileged by statute and not
15 directly related to reports required by this section must not be
16 divulged without a valid written waiver of the privilege.

17 ~~((+8+))~~ (9) Any case referred to the department by a physician
18 licensed under chapter 18.57 or 18.71 RCW on the basis of an expert
19 medical opinion that child abuse, neglect, or sexual assault has
20 occurred and that the child's safety will be seriously endangered if
21 returned home, the department shall file a dependency petition unless
22 a second licensed physician of the parents' choice believes that such
23 expert medical opinion is incorrect. If the parents fail to designate
24 a second physician, the department may make the selection. If a
25 physician finds that a child has suffered abuse or neglect but that
26 such abuse or neglect does not constitute imminent danger to the
27 child's health or safety, and the department agrees with the
28 physician's assessment, the child may be left in the parents' home
29 while the department proceeds with reasonable efforts to remedy
30 parenting deficiencies.

31 ~~((+9+))~~ (10) Persons or agencies exchanging information under
32 subsection ~~((+7+))~~ (8) of this section shall not further disseminate or
33 release the information except as authorized by state or federal
34 statute. Violation of this subsection is a misdemeanor.

35 ~~((+10+))~~ (11) Upon receiving reports of alleged abuse or neglect,
36 the department or law enforcement agency may interview children. The
37 interviews may be conducted on school premises, at day-care facilities,
38 at the child's home, or at other suitable locations outside of the

1 presence of parents. Parental notification of the interview must occur
2 at the earliest possible point in the investigation that will not
3 jeopardize the safety or protection of the child or the course of the
4 investigation. Prior to commencing the interview the department or law
5 enforcement agency shall determine whether the child wishes a third
6 party to be present for the interview and, if so, shall make reasonable
7 efforts to accommodate the child's wishes. Unless the child objects,
8 the department or law enforcement agency shall make reasonable efforts
9 to include a third party in any interview so long as the presence of
10 the third party will not jeopardize the course of the investigation.

11 ~~((+11+))~~ (12) Upon receiving a report of alleged child abuse and
12 neglect, the department or investigating law enforcement agency shall
13 have access to all relevant records of the child in the possession of
14 mandated reporters and their employees.

15 ~~((+12+))~~ (13) The department shall maintain investigation records
16 and conduct timely and periodic reviews of all cases constituting abuse
17 and neglect. The department shall maintain a log of screened-out
18 nonabusive cases.

19 ~~((+13+))~~ (14) The department shall use a risk assessment process
20 when investigating alleged child abuse and neglect referrals. The
21 department shall present the risk factors at all hearings in which the
22 placement of a dependent child is an issue. Substance abuse must be a
23 risk factor. The department shall, within funds appropriated for this
24 purpose, offer enhanced community-based services to persons who are
25 determined not to require further state intervention.

26 ~~((+14+))~~ (15) Upon receipt of a report of alleged abuse or neglect
27 the law enforcement agency may arrange to interview the person making
28 the report and any collateral sources to determine if any malice is
29 involved in the reporting.

30 ~~((+15+))~~ (16) The department shall make reasonable efforts to learn
31 the name, address, and telephone number of each person making a report
32 of abuse or neglect under this section. The department shall provide
33 assurances of appropriate confidentiality of the identification of
34 persons reporting under this section. If the department is unable to
35 learn the information required under this subsection, the department
36 shall only investigate cases in which: (a) The department believes
37 there is a serious threat of substantial harm to the child; (b) the
38 report indicates conduct involving a criminal offense that has, or is

1 about to occur, in which the child is the victim; or (c) the department
2 has, after investigation, a report of abuse or neglect that has been
3 founded with regard to a member of the household within three years of
4 receipt of the referral.

5 (17) For the purposes of this section, the following definitions
6 apply:

7 (a) "Volunteer" means any person who, of his or her own free will,
8 provides goods or services without any financial gain to any agency,
9 instrumentality, political subdivision, or school district of the state
10 of Washington;

11 (b) "Occasional-service volunteer" means any person who provides a
12 one-time or occasional volunteer service; and

13 (c) "Regular-service volunteer" means any person engaged in
14 specific volunteer service activities on an ongoing or continuing
15 basis."

16 Correct the title.

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